

EDMUND G. BROWN JR., Attorney General
of the State of California
THOMAS S. LAZAR
Supervising Deputy Attorney General
DAVID P. CHAN, State Bar No. 159343
Deputy Attorney General
California Department of Justice
110 West "A" Street, Suite 1100
San Diego, CA 92101

P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2600
Facsimile: (619) 645-2061

Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

MILVIN T. TORREVILLAS, R.C.P.
707 South Webster Avenue, Apt. #114
Anaheim, CA 92804

Respiratory Care Practitioner License No. 18632

Respondent.

Case No. R-2065

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 28, 2007, Complainant Stephanie Nunez, in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs, filed Accusation No. R-2065 against MILVIN T. TORREVILLAS, R.C.P. (Respondent) before the Respiratory Care Board.

2. On or about April 18, 1996, the Respiratory Care Board (Board) issued Respiratory Care Practitioner License No. 18632 to Respondent. The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2007, unless renewed.

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1 3. On or about March 28, 2007, Jennifer Porcalla, an employee of the
2 Complainant Agency, served by Certified and First Class Mail a copy of the Accusation No.
3 R-2065, Statement to Respondent, Notice of Defense, Request for Discovery, and Government
4 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,
5 which was and is 707 South Webster Avenue, Apt. #114, Anaheim, CA 92804. A true and
6 correct copy of the Accusation, the related documents, and Declaration of Service are attached as
7 Exhibit A, and are incorporated herein by reference.

8 4. Service of the Accusation was effective as a matter of law under the
9 provisions of Government Code section 11505, subdivision (c).

10 5. On or about April 9, 2007, the aforementioned documents were returned
11 by the U.S. Postal Service marked "Moved Left No Address," "Unable To Forward," "Return To
12 Sender." The original postal returned First Class and Certified Mail documents are attached
13 hereto as Exhibit B, and are incorporated herein by reference.

14 6. Government Code section 11506 states, in pertinent part:

15 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
16 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
17 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
18 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

19 7. Respondent failed to file a Notice of Defense within 15 days after service
20 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
21 Accusation No. R-2065.

22 8. California Government Code section 11520 states, in pertinent part:

23 "(a) If the respondent either fails to file a notice of defense or to appear at the
24 hearing, the agency may take action based upon the respondent's express admissions or
25 upon other evidence and affidavits may be used as evidence without any notice to
26 respondent."

27 9. Pursuant to its authority under Government Code section 11520, the Board
28 finds Respondent is in default. The Board will take action without further hearing and, based on

Respondent's express admissions by way of default and the evidence before it, contained in Exhibits A, B and C, finds that the allegations in Accusation No. R-2065 are true.

10. The Respiratory Care Board further finds that pursuant to Business and Professions Code section 3753.5, the costs of investigation and enforcement of the case prayed for in the Accusation total \$1,900.50 based on the Certification of Costs contained in Exhibit C.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent MILVIN T. TORREVILLAS, R.C.P. has subjected his Respiratory Care Practitioner License No. 18632 to discipline.

2. A true and correct copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Respiratory Care Board is authorized to revoke Respondent's Respiratory Care Practitioner License No. 18632 based upon the following violations alleged in the Accusation:

- a. Business and Profession Code sections 3750, subdivisions (d) and (g), 3750.5, subdivision (d), and 3752; and CCR, title 6, section 1399.370, subdivision (a) [Conviction of a Crime];
- b. Business and Profession Code sections 3750, subdivision (g), 3750.5, subdivisions (a), as defined by section 3750.5, subdivision (d); and CCR, title 16, section 1399.370(a) [Conviction of a Crime Involving Possession of a Controlled Substance] [Possession of a Controlled Substance]; and
- c. Business and Professions Code sections 3750.5, subdivision (b) and CCR, title 16 section 1399.370(a) [Use of a Controlled Substance].

5. Respondent is hereby ordered to pay the above costs of investigation and enforcement of this action.

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Respondent is ordered to reimburse the Respiratory Care Board the amount of \$1,900.50 for its investigative and enforcement costs. The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to reimburse the Board for its costs.

Respondent's Respiratory Care Practitioner License may not be renewed or reinstated unless all costs ordered under Business and Professions Code section 3753.5 have been paid.

This Decision shall become effective on June 18, 2007.

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